

Memorandum

To : Monte Williams *mlw*

Date: July 27, 1993

From : Susan Scott

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JUL 28 1993

Subject: Surcharge Exemption for Job Corps Center

EXCISE TAX DIVISION

In response to your memo of February 5, 1993, I have reviewed the scope of the exemption and prohibition against state taxation of job corps operations in 29 USC §1707(c). I agree with your analysis that both the 9-1-1 surcharge and the Energy Resources Surcharge constitute taxes upon the service users, and if the service users are job corps center operators, imposition of the taxes is prohibited under the U.S. Code. Consequently, the contractor is exempt under Revenue and Taxation Code §41027.

Of course, the contractor must also be the operator of a job corps center -- not simply a supplier or consultant, in order to come within the scope of §1707(c). I am assuming your "contractor" is also an operator. Also, although broad language (which you have highlighted) in the last sentence of §1707(c) indicates that the prohibition applies to any tax or fee, regardless of how it is measured, the legislative history of P.L. 99-496 specifies only taxes "measured by gross receipts" as being subject to the prohibition. (1986 U.S. Code Cong. and Admin. News. 2568.) Since both the 9-1-1 and Energy surcharge are measured by gross receipts, there is no need to resolve the scope of the prohibition with respect to this contractor. However, in drafting regulations, it may be necessary to do more research into legislative intent.



cc: Larry Augusta
Janet Vining